



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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March 16, 2005

Mr. Miles Mayhew
City of Seattle
700 Fifth Avenue, Suite 2000
Seattle, WA 98104-5070

Dear Mr. Mayhew:

RE: Ecology's Comments on Draft Environmentally Critical Areas Code

Thank you for the opportunity to review and comment on the City's February 2005 Environmentally Critical Areas draft Proposed Code, as well as the Directors report & recommendations.

Ecology is pleased with many elements of the proposed code changes. We particularly like:

- Adoption of the western Washington wetland rating system
- Inclusion of key elements of Ecology's recommendations in "buffer alternative 3" from "Wetlands in Washington State – Volume 2: Protecting and Managing Wetlands" that are applicable to the City
- Requiring wetland buffer restoration in situations when existing conditions do not protect wetland functions.
- Limiting buffer reductions to Category IV wetlands.

Due to limited time I'd like to limit this letter to the areas we discussed during our meeting last week.

Wetland buffers

The draft code is proposing a fixed buffer width approach (similar to "buffer alternative 1") but with provisions for increasing buffers in wetlands with high scores for habitat functions (29 points or greater, determined using the rating system).

The fixed buffer widths in the draft are as follows:

Category I and II	100 feet
Category III	60 feet
Category IV (greater than 1000 sq. ft.)	50 feet

For category I and II wetlands with high scores for habitat function (29-36 points), the Director may increase the buffer by up to 25 feet. Buffers reductions are limited to Category IV wetlands.

The buffer widths listed above are within the moderate risk range for Category III and IV wetlands, and for Category I and II with habitat scores of 20-28 points (moderate habitat), provided that site impacts are minimized using applicable mitigation measures. Although there are likely few or no wetlands in the City that score high for habitat functions, we recommend the City add a provision to require wider buffers in such a situation. You may wish to consider the buffer widths adopted by

King County for wetlands with high habitat scores in unincorporated areas of the County that are within the urban growth boundary. Should such wetlands occur within the UGA, King County will require a 200-foot buffer. Do you know if you have any wetlands with high habitat scores in the City that may warrant a wider buffer?

Ecology recommends buffers of 110 feet on Category I and II wetlands with moderate habitat scores that are adjacent to high impact land uses, provided that site impacts are reduced to moderate (per buffer alternative 3).

For Category III wetlands with “high habitat functions” the ordinance is proposing that the buffer be increased to 85 feet. Do you mean “moderate level of function for habitat”? Buffer alternative 3 defines moderate habitat in wetlands scoring between 20 and 28 points. Category III wetlands that score high for habitat will end up being rated as Category II. Recommendation: Increase the buffer to 85 feet for Category III wetlands scoring 20-28 points.

Ecology’s guidance allows for buffers as narrow as 75 feet on Category I and II wetlands in situations where the wetlands score high for water quality and low for habitat. Given that this situation will apply in the City we recommend you consider adding this provision.

Finally, Ecology recommends the City consider including the rest of the site mitigation measures in buffer alternative 3 that apply to the City. They include measures to mitigate the impacts from pets and human disturbance, noise, and dust.

Mitigation for small isolated wetlands

Ecology does not have a formal guidance document addressing small isolated wetlands. However, internal staff discussions have generated the following concept for a regulatory approach to small wetlands in western Washington for consideration by local jurisdictions.

The City of Seattle may want to consider the following strategy for regulating small wetlands that are less than 3,000 square feet in size. This strategy is flexible, exempts the smallest wetlands, and provides evaluation criteria for other small wetlands that would allow staff to consistently determine what protection measures are necessary. The rationale for allowing impacts to certain small wetlands is based on the premise that functions being provided by these types of Category III and IV wetlands can be adequately replaced by mitigation. In addition, this approach may benefit local wetland resources in the long term by providing part of the funding for larger local restoration projects that have the potential to provide higher functioning wetlands in the long term. This approach could be implemented through development of a fee-in-lieu compensatory mitigation system.

1. Exempt all wetlands less than 1,000 square feet in size and allow impacts to Category III and IV wetlands between 1,000 and 3,000 square feet. In both cases, all of the following criteria must be met:
 - A. Wetland is not associated with a riparian corridor;
 - B. Wetland is not part of a wetland mosaic;
 - C. Wetland does not score 20 points or greater for habitat in the 2004 Washington Wetland Rating System for western Washington; and
 - D. Wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife

The City may want to add criteria here to include locally identified wetlands with high water quality functions (those wetlands that score high for water quality function in rating

system). For example, a wetland receives surface water drainage from surrounding landscape and improves water quality before discharging water to downstream water bodies. This approach could include specific drainages where protection of water quality is given higher priority and there are significant wetland resources that provide high level of this function.

2. Use Ecology's 2004 Washington State Wetland Rating System for western Washington to establish wetland category and evaluate functions. Use the above criteria and local knowledge of natural resources to make an informed decision about whether to allow impacts to Category III or IV wetlands between 1,000 square feet and 3,000 square feet in size.
3. All Category I and II Wetlands between 1,000 square feet and 3,000 square feet should be fully protected as required elsewhere in the CAO.
4. Impacts to all wetlands that are allowed under this provision would be fully mitigated as required elsewhere in the CAO.

Fee-in lieu compensatory mitigation program

At our meeting last week (March 8) I recommended the City consider development of a "fee-in-lieu" program as a way to allow impacts to smaller wetlands while generating the funding to consolidate wetland restoration at targeted areas. On-site mitigation for small wetland impacts can be difficult to implement and is often less effective than mitigation on larger sites. To develop appropriate mitigation for impacts to smaller wetlands it maybe useful to use off-site mitigation strategies, approved mitigation banking or a fee-in-lieu program. Mitigation banking or a fee-in-lieu program would absorb these smaller impacts quickly and efficiently. For instance, once a fee-in-lieu program is in place, small wetland impacts could be taken care of with a check written to the City to "purchase" mitigation credit from an existing mitigation site or to fund the purchase of property for additional mitigation area. Page 8-30 of Ecology's draft BAS Volume 2 document discusses fee-in lieu programs further.

Thank you for the opportunity to work with you on updating the City of Seattle's Environmentally Critical Areas Ordinance. If you have any questions, please give me a call at (425) 649-7061 or send e-mail to esto461@ecy.wa.gov.

Sincerely,



Erik Stockdale
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Shorelands & Environmental Assistance Program

cc: Jeannie Summerhays, Ecology
Donna Bunten, Ecology
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